

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

JUN 25 2015

David J. Bradley, Clerk of Court

United States of America
v.
Luis Alberto ROJAS-Penaloza
YOB: 1988

Case No.

H15-907 M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 7, 2015 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

Title 21 U.S.C. Section 846

Conspiracy to possess with intent to distribute more than 5 kilograms of
cocaine, a Schedule II controlled substance

This criminal complaint is based on these facts:

See attached "Affidavit"

☒ Continued on the attached sheet.Approved by: Anibal J. Alaniz
AUSAJuan Fernandez
Complainant's signature

Juan Fernandez, S/A DEA

Printed name and title

Sworn to before me and signed in my presence.

Date: June 25, 2015Stephen W. Smith
Judge's signatureCity and state: Houston, Texas

Stephen Wm. Smith, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

1. Your Affiant, Special Agent ("SA") Juan Fernandez, has been employed by the Drug Enforcement Administration ("DEA"), as a SA since September 2004. Your Affiant is currently assigned to the DEA - High Intensity Drug Trafficking Area ("HIDTA"), Squad H-33, in the Houston Division. Your Affiant has conducted investigations into the unlawful importation, possession with intent to distribute and distribution of controlled substances, the unlawful use of a communication facility, and attempts and conspiracies to do the same. This affidavit is made in support of a criminal complaint filed against Luis Alberto ROJAS-Penaloza (hereafter referred to as "ROJAS-Penaloza").

2. The information set forth in this affidavit is based upon your Affiant's personal knowledge and/or information provided to Affiant by personal observations of other law enforcement agents and officers, witnesses, and cooperating individuals who your Affiant believes to be reliable and credible.

3. Because this affidavit is being submitted for the limited purpose of supporting a criminal complaint, your Affiant has not included each and every fact concerning this investigation. Your Affiant has only set forth the facts believed to establish probable cause that ROJAS-Penaloza has committed a violation of federal law.

4. On March 4, 2015, a reliable and credible Confidential Source (CS) informed agents and Task Force Officers (TFOs) assigned to the Houston Division Office (HDO) High Intensity Drug Trafficking Area (HIDTA) Major Drug Squads (MDS) that Carlos RODRIGUEZ (hereafter referred to as RODRIGUEZ) and RODRIGO Last Name Unknown (LNU) (hereafter referred to as RODRIGO) asked the CS to transport nine (9) kilograms of cocaine from Laredo, Texas to Houston, Texas. On the same date, HDO agents began coordinating a controlled delivery to

Houston with DEA agents assigned to the Laredo District Office (LDO) in an effort to further the investigation.

5. On March 5, 2015, a consensual wire intercept was initiated over the CSs telephone in an effort to obtain incriminating evidence to identify unknown members of the organization. On March 6, 2015, RODRIGO informed the CS that RODRIGUEZ's couriers had the cocaine and were ready to deliver it to the CS. At the direction of agents, the CS told RODRIGUEZ he/she would meet the couriers at a predetermined location in Laredo, Texas. Prior to the meeting, LDO agents established surveillance near the predetermined location and witnessed the delivery of the cocaine to CS by two (2) Hispanic males. After the delivery was made, agents met the CS at a neutral location to take custody of the cocaine, while another group of agents followed the Hispanic males in an effort to identify them. On March 7, 2015, LDO agents released the cocaine to HDO agents who transported the cocaine from Laredo to Houston and released it to the DEA drug evidence custodian (**Agent's note**: HDO agents used nine (9) bricks of simulated cocaine to complete this delivery in New Caney, Texas).

6. On March 7, 2015, RODRIGUEZ provided telephone number (409) 229-8020 to the CS and instructed the CS to coordinate the delivery of the cocaine in Houston. At approximately 3:18 p.m., (call session #13) the CS called (409) 229-8020 and spoke to a Spanish speaking male (believed to be named "Tomas"). The CS informed "Tomas" that he/she was calling on behalf of RODRIGUEZ and "Tomas" responded "oh, yeah, tell me". The CS informed "Tomas" he/she had "some parts" (reference to 9 kilograms of cocaine) RODRIGUEZ sent him ("Tomas") and "Tomas" informed the CS that "Luis" would call him/her shortly to take care of the delivery.

7. At approximately 3:22 p.m., (call session #16) ROJAS-Penaloza used telephone number (832) 897-4746 to call the CS. During the call, ROJAS-Penaloza told the CS he was RODRIGUEZ's friend, the "taxi driver" (code meaning courier) and was calling to "pick up the ladies" (code meaning 9 kilograms of cocaine). During the call, ROJAS-Penaloza asked the CS for an address where he could meet the CS. At approximately 4:39 p.m., (call session #18) the CS called ROJAS-Penaloza to ask if he would be the person picking up "the parts" and ROJAS-Penaloza confirmed he was the "taxi driver" (code meaning courier). During this call, the CS and ROJAS-Penaloza talked about meeting at a Walmart located near US Highway 59 North (Agent's note: this Walmart store is located at 23561 US Highway 59, Porter, Texas).

8. At approximately 5:11 p.m., (call session #23) ROJAS-Penaloza called the CS to inform he was by the Walmart. The CS informed ROJAS-Penaloza he/she had to move to a different location and asked ROJAS-Penaloza to meet him/her at a nearby Flying J truck stop. At approximately 5:44 p.m., (call session #31) the CS called ROJAS-Penaloza to ask where he was and ROJAS-Penaloza stated he was already at the Flying J truck stop and was going to park in front of the Denny's restaurant. At that time, surveillance team members observed a two (2) door silver Honda Civic driving into the parking lot of the Flying J truck stop and park directly in front of the Denny's restaurant. The CS walked out of the restaurant, opened the passenger door of the silver Honda Civic driven by ROJAS-Penaloza (sole occupant) and placed the simulated cocaine on the floor board of the front passenger area. ROJAS-Penaloza then drove out of the parking lot and continued southbound on US Highway 59.

9. At approximately 6:00 p.m., a Montgomery County Sheriff's Office (MCSO) patrol unit stopped ROJAS-Penaloza for a traffic violation. During the encounter, the MCSO deputy determined ROJAS-Penaloza was driving without a driver's license and arrested ROJAS-

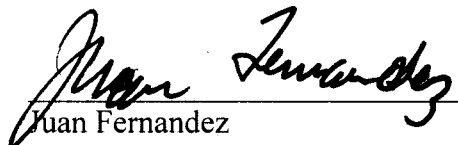
Penaloza. The vehicle and ROJAS-Penaloza were transported to the MCSO for processing. During an inventory search of the vehicle, deputies recovered the simulated cocaine and a black Kyocera cellular telephone assigned number (832) 897-4746. ROJAS-Penaloza was asked for and gave consent to search his cellular telephone and signed a consent form. A search of the telephone revealed telephone number (409) 229-8020 was listed in ROJAS-Penaloza's contact list as "Tomas" (Agent's note: the Flying J truck stop is located at 23412 Highway 242, New Caney, Texas and has a Denny's restaurant attached to it. The distance between Walmart and the Flying J truck stop is approximately seven (7) miles).

10. DEA agents performed field tests of the substance contained within the bricks at the Houston Division which tested positive for cocaine HCL.

[THIS SECTION INTENTIONALLY LEFT BLANK]

11. On June 19, 2015, your Affiant learned ROJAS-Penaloza was arrested by officers from the Houston Police Department after they seized approximately two (2) kilograms of crystal methamphetamine and approximately five (5) gallons of liquid methamphetamine from a stash house (trailer house) ROJAS-Penaloza was seen departing during a surveillance operation. The stash house is located in the Houston area. ROJAS-Penaloza is currently in custody at the Harris County Jail.

12. Based on the above, the undersigned believes there is probable cause to believe that Luis Alberto ROJAS-Penaloza has committed a crime in violation of Title 21, United States Code, Section 846.



Juan Fernandez
Special Agent
Drug Enforcement Administration

SUBSCRIBED AND SWORN TO before me this 25th day of June, 2015 and I find probable cause.



Stephen Wm. Smith
UNITED STATES MAGISTRATE JUDGE